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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,299	03/19/2004	Franklin C. Simon	032693-114	7817

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EXAMINER	
FISHER, MICHAEL J	
ART UNIT	**PAPER NUMBER**
3629	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/804,299	SIMON ET AL.	
	Examiner	Art Unit	
	Michael J. Fisher	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-45 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-45 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

Claims 1-45 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1 and 2 of prior U.S. Patent No. 6,195,648. This is a double patenting rejection.

Claims 1-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,195,648. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are both drawn to a system for disabling a vehicle upon non-receipt of payment and both the patent and the instant application include the following limitations:

Computing a payment due deadline (claim 1 of the instant application and claim 1 of the patent);

Generating a reference code (claim 1 of the instant application and claim 1 of the patent);

Providing a reference code (claim 1 of the instant application and claim 1 of the patent);

Receiving an additional code via a keypad (claim 1 of the instant application and claim 1 of the patent), the keypad is at the equipment;

Passing the additional code to a comparator (claim 1 of the instant application and claim 1 of the patent);

Comparing the additional code to a reference code (claim 1 of the instant application and claim 1 of the patent);

Disabling the vehicle if the codes don't match (claim 1 of the instant application and claim 1 of the patent);

Enabling the vehicle if they do match (claim 1 of the instant application and claim 1 of the patent);

Further claims in the instant application either contain the same limitations, such as independent claims 3 and 12, or are obvious variants, such as claim 2 where the payment due deadline is computed using a payment period or a grace period, which are very well known in the art and would have been obvious to use as payment deadlines. For instance, loan companies generally have a due date and a grace period, where you are later than the due date but still not officially considered 'late'.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-28 and 33-36 and 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 5,917,405 to Joao in view of US PAT 6,647,328 to Walker.

As to claims 1,3,12,14,18,19,20,25,27,33,35,40,41 and 45, Joao discloses a method or enabling and disabling a vehicle (title), that generates a reference code (first signal, claim 1), providing the code to a comparator (inherent in that the system is shown as receiving signals for activating, deactivating, enabling and disabling a system and therefore, would need to compare the incoming signal to the stored signals to know which action to take), receiving an additional code via a keypad (975), this would be periodic (it is shown as being entered more than once, this would be 'periodically), comparing the additional code with a reference code, col 46, line 66-col 47, line 7), passing the additional code to the comparator and comparing (inherent in that the additional code can enable the vehicle and would therefore be compared to allowed, enabling signals), disabling the system if the reference code is not received and enabling the vehicle if the signals are not received. Further, the system is shown to include items not dedicated to directly causing a spark (claim 2, electrical system does not directly initiate a spark, a spark plug does.) It would be inherent the process is not done until the system is initialized as initialization is how computers are activated.

Joao does not, however, teach using the system for loan repayment purposes or computing a deadline. Walker teaches a vehicle disabling system (title) that is taught as being useful for "loan companies" (col 59, lines 2-20). Therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Joao by using it for ensure loan repayment, as taught by Walker, as failure to pay (missing a deadline) for a car is akin to stealing the car (the ostensible purpose of Joao). Further, it would have been obvious to one of ordinary skill in the art to use a payment deadline as this is when the loan company would require payment in accordance with a loan agreement or repossess the vehicle and to change the codes for future deadlines else a code for a passed deadline could be used for a future deadline.

Joao further does not teach the keypad as being at the vehicle. It would have been obvious to one of ordinary skill in the art to have the keypad at the vehicle as, as is discussed above, Joao does teach accepting the code at the vehicle and this would eliminate a problem if the vehicle is in a place where a signal cannot be received.

As to claims 2,28,36 it is very well known in the art for loan companies to have a so-called 'grace-period' in their loan repayment schedule. Therefore, it would have been obvious to include a "grace period" as this would avoid disabling a vehicle if the check is in the mail.

As to claims 4,6 and 42, it would be inherent that the due date deadline, and related codes, would be computed throughout the life of the loan as loans are very well known to have more than one payment.

As to claim 5, it would be inherent that a set of reference codes are computed as there are different codes necessary, (enable, disable, etc.) and further, it would have been obvious to compute them together as this would make the process shorter.

As to claim 7, it would be inherent that the computer would have to know if a code exists as the computer is comparing them.

As to claims 8 and 16, a critical system is disabled (claim 1).

As to claims 9 and 17, the vehicle would be partially disabled in some instances (an example of systems or components disabled is fuel system, disabling this would partially disable the vehicle as the electrical system would work and therefore, the radio, lights and other electrical systems would work.

As to claims 10 and 21, it would be inherent that the enabling step releases a disabled system from its disabled state else it would not be enabled if the system had been previously disabled, through an error inputting a code, or after making a late payment that had resulted in a disabled system.

As to claim 11, it would be inherent that an enabling step leaves the systems enabled if the systems had not been previously disabled.

As to claims 13 and 15, the comparator is shown as triggering an event (disable, enable, activate, deactivate), as the system is used for loans it would have been inherent that "periodic" means 'when the payments are due'.

As to claim 23, input into a keypad would be tactile input and it would inherently change it to digital code else the computer could not understand the input.

As to claim 24, the system is shown to include electrical systems (claim 2).

As to claims 26,34 and 43, computers inherently use algorithms in their computation.

As to claim 42 and 45, it would have been obvious to one of ordinary skill in the art to use different codes each time else the user could learn the codes and avoid the system.

As to claim 44, the number of days would the length of each payment period and the predetermined date would be the beginning of the relationship between the owner of the vehicle and the owner of the system.

Claims 29-32 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joao in view of Walker as applied to claims 1-28 and 30-45 above, and further in view of US PAT 5,850,599 to Seiderman.

As for claims 29 and 37, Joao in view of Walker disclose a system as discussed. They do not, however, teach an emergency code that could be used to enable a vehicle. Seiderman discloses a system for disabling a system (cell-phone) in event of non-payment (claim 1) that allows a user to input an emergency number and have the system activated (col 1, lines 35-40).

Therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Joao in view of Walker by allowing an emergency number to

activate the system as taught by Seiderman as, if the car is disabled in a dangerous place and the person is hurt, the person could sue the loan company.

As to claims 30 and 38, it would have been obvious to one of ordinary skill in the art to limit the number of emergency 're-enables' allowed to discourage misuse of the emergency number.

As to claims 31 and 39, the system would be temporarily re-enabled (until the next time the code is needed).

As to claim 32, it would have been obvious to one of ordinary skill in the art to use a payment deadline as this is when the loan company would require payment in accordance with a loan agreement or repossess the vehicle.

Response to Arguments

Applicant's arguments filed 10/3/05 have been fully considered but they are not persuasive. It is very well known in the art that loans are repaid in periodic installments. Therefore, to use payment due dates would be obvious to one of ordinary skill in the art as these are the periods for which loan payments are required. Seiderman teaches disabling equipment in event of non-payment of periodic payments, which is analogous art. The 911 call would be the emergency code received. If the caller tried to place a "411" call, it would not be allowed as only an emergency number could be used, thereby meeting the limitations as claimed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Fisher whose telephone number is 571-272-6804. The examiner can normally be reached on Mon.-Fri. 7:30am-5:00pm alt Fri. off.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF
12/21/05

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